

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATAART SOLUTIONS, INC.,

Plaintiff,

-against-

AFFINITY ESOLUTIONS INC.,

Defendant.

Index No.

COMPLAINT

JURY TRIAL DEMANDED

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Plaintiff DataArt Solutions, Inc. (“DataArt”), by its attorneys, Lynch Rowin LLP, for its complaint against defendant Affinity eSolutions Inc., alleges as follows:

PARTIES

1. DataArt is a New York corporation with its principal place of business at 475 Park Avenue South, New York, New York 10016.

2. DataArt develops software for small and medium sized enterprises and specializes in enterprise application development, systems integration and business automation tools.

3. Affinity is a corporation incorporated under the laws of the State of Delaware with its principal place of business at 100 Allstate Parkway, Suite 400, Markham, Ontario, L3R 6H3 Canada.

4. Affinity develops and implements scalable, highly-secure information

technology solutions that transform, consolidate, automate, and organize inefficient processes subject to stringent privacy, confidentiality, and regulatory requirements.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1332(a)(1), in that DataArt and Affinity are citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

6. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(3), in that Affinity agreed that this district is a proper venue for any lawsuit brought to enforce rights under the Master Services Agreement (“Agreement”) between it and DataArt.

FIRST CLAIM

7. On or about October 1, 2014, DataArt and Affinity executed the Agreement, pursuant to which DataArt agreed to provide software development services to Affinity in consideration for Affinity’s payment of agreed-upon fees.

8. The Agreement provides that DataArt will render invoices to Affinity every two weeks and that Affinity will pay all invoices in full within 15 days of the date of the invoice. The Agreement also provides that any undisputed invoices which remain unpaid for 20 days will bear interest at the rate of five percent per month.

9. The Agreement further provides that within 20 days of its receipt of an invoice, Affinity is required to notify DataArt if it has any objections to the invoice. If no

objection is made within ten days, the invoice shall be deemed to have been accepted by Affinity.

10. The Agreement also provides that Affinity is required to pay DataArt its reasonable attorneys fees and expenses incurred in connection with the collection of money due and owing to DataArt under the Agreement.

11. DataArt timely performed software development services under the Agreement and rendered invoices to Affinity, which were not paid.

12. As of the date of this complaint, DataArt has rendered invoices to Affinity totaling \$522,321.72.

13. Despite DataArt's timely performance of all software development services, Affinity has failed to pay the amount of \$522,321.72, which is due and owing to DataArt pursuant to the Agreement.

14. By reason of the foregoing, Affinity has breached the Agreement and DataArt has been damaged in the amount of \$522,321.72.

SECOND CLAIM

15. Paragraphs 1 through 14 are realleged.

16. From time to time, DataArt rendered invoices to Affinity totaling \$522,321.72, for the software development services rendered by DataArt to Affinity.

17. The invoices which DataArt rendered to Affinity were never disputed by

Affinity, which thus accepted the invoices and acknowledged the debt owed to DataArt based upon those invoices.

18. The invoices which DataArt rendered to Affinity constitute an account stated.

19. By reason of the foregoing, DataArt has been damaged in the amount of \$522,321.72

WHEREFORE, DataArt demands judgment in its favor against Affinity as follows:

A. On its First and Second Causes of Action, awarding it damages in the amount of \$522,321.72 plus DataArt's reasonable attorneys fees and expenses;

B. Awarding it interest and the costs and disbursements of the action, including attorneys fees; and

C. Granting it such other relief as is just and proper.

Dated: New York, New York
December 20, 2016

LYNCH ROWIN LLP

By:____/s/Marc Rowin_____
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